

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12848 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GUJ STATE ROAD TRANSPORT CORPN

Versus

NOORMOHMAD RASIDMIYA MALEK

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Appearance:

MS SEJAL SUTARIA for Petitioner

None present for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/11/97

ORAL JUDGEMENT

#. Heard learned counsel for the petitioner and perused the Special Civil Application.

#. Challenge has been made by petitioner to the award of the Labour Court No.2 at Ahmedabad, in Ref.No.(LCA) 1128 of 1989 decided on 26th May 1994. Under the award impugned, dismissal of respondent-workman was held to be illegal and he was ordered to be reinstated back in

service with 60% backwages and other such consequential benefits like promotion, bonus, earned leave, L.T.C. and continuity in service.

#. The respondent-workman was dismissed on the alleged misconduct that he submitted forged medical certificate. The respondent-workman was admittedly suffering from the ailment of Tuberculosis. He submitted his medical certificate of treatment of Tuberculosis of Dr.R.B.Patel and this certificate was taken to be forged on the ground that Dr.R.B.Patel had written to the Corporation that he had not signed any such certificate. The Labour Court has found as a fact that the Doctor was not produced in the departmental enquiry held against the respondent and the respondent had no opportunity to cross-examine that witness. In the absence of examination of the Doctor, I find sufficient justification in the award of the Labour Court not to rely on some writing given by the Doctor to the Corporation. Reliance placed by the Corporation on writing of the Doctor without examining the Doctor is certainly serious illegality in the departmental inquiry and on the basis of which the whole proceeding in the departmental inquiry has vitiated. The Labour Court has, in view of this fact, not committed any error whatsoever in ordering for reinstatement of the respondent-workman with 60% backwages etc. This Special Civil Application is wholly misconceived and the same is dismissed. Rule discharged. Interim relief granted by this Court stands vacated. No order as to costs.

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(sunil)